

**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

**I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-18 are currently pending. Claims 1, 7 and 13, which are independent, are hereby amended. No new matter has been introduced. Support for this amendment is provided throughout the Specification as originally filed, specifically on pages 10-11. Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

**II. REJECTIONS UNDER 35 U.S.C. §103(c)**

Claims 1-18 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,700,989 to Itoh (hereinafter, merely “Itoh”), in view of U.S. Patent No. 6,601,074 to Liebenow (hereinafter, merely “Liebenow”).

Claim 1 recites, *inter alia*:

“A receiving system...

determining whether or not a program being received is copy protected,

setting said external recording device to a recording state if said program is initially found not copy protected, and

disabling control of said external recording device if said program is found copy protected before recording said received program onto said external recording device;

whereby said external recording device is prevented from recording received copy protected programs,

determining means for determining if said program is recordable based on Entitlement Control Message (ECM) data and Entitlement Management Message (EMM) data.” (emphasis added)

As understood by Applicants, Itoh relates to a contrivance for inserting watermark information into a moving image. The watermark information indicative of the ownership of the copyright of the moving image is inserted into the frames of the moving image at irregular intervals. The frames are of such a number that the watermark information is visually not perceivable during the display of a moving image. In addition, the insertion positions of the watermark information in the frames are determined on the basis of random number values. Restrictive information for the copying of the moving image is inserted together with the watermark information. When the moving image has been brought to a standstill into a static image, the watermark information can be visually perceived with ease, so that illegality such as piracy can be readily exposed. Itoh provides a simple and inexpensive scheme for the copyright protection of the moving image.

As understood by Applicants, Liebenow relates to a method, system, signal and software which maintain an electronic program guide (EPG) that includes episode identifiers associated with program information. Information in a database is used to specify programs or actions associated with specified programs. These programs may include recording a program that has not been previously recorded, or re-recording a program of lesser recording quality or reproduction quality if a better quality recording can be made.

Applicants respectfully submit that Itoh and Liebenow, taken alone or in combination, fail to teach or suggest the features of claim 1. Specifically, Applicants submit that there is no teaching or suggestion of a receiving device in which determining if a received program is recordable based on Entitlement Control Message (ECM) data and Entitlement Management Message (EMM) data, recited in claim 1.

Therefore, Applicants respectfully submit that claim 1 is patentable.

For reasons similar to those described above with regard to independent claim 1, independent claims 7 and 13 are also believed to be patentable.

Therefore, Applicants submit that independent claims 1, 7 and 13 are patentable.

### **III. DEPENDENT CLAIMS**

The other claims are dependent from one of the independent claims discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

### **CONCLUSION**

In the event the Examiner disagrees with any of the statements appearing above with respect to the disclosures in the cited references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

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In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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